

REMARKS

This is intended as a full and complete response to the Office Action dated December 6, 2004, having a shortened statutory period for response set to expire on March 6, 2004.

Claims 1 are currently amended in the Application

Claims 1-21 are pending in the Application.

I. Claim Rejections, 35 USC §112

The Office Action rejected Claims 1-10 under 35 U.S.C. § 112 as being indefinite for failing to point out particularly and claim distinctly the claimed subject matter. Applicant hereby amends Claim 1 to correct the clerical error by removing the phrase "ingesting the beverage".

Applicant believes that no new matter has been added with this amendment. Reconsideration of Claims 1-10 is respectfully requested.

II. Double Patenting

The Office Action provisionally rejected claims 1-21 under the judicially created doctrine of obviousness-type double patenting as being unpatentable in view of co-owned US Patent Registration Number 6,660,308 and in view of US Registration Number 4,647,453.

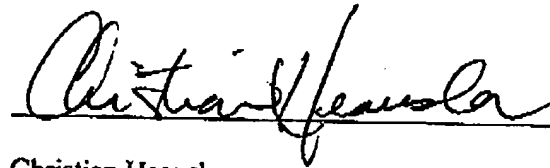
Applicant hereby submit a terminal disclaimer to overcome the provisional double patenting obviousness-type rejection for US Patent Registration Number 6,660,308. The terminal disclaimer with the associated fee is included as Attachment A.

Applicant believes that no new matter has been added with the amendments.

Reconsideration of this Application with the amended claims in view of the remarks expressed throughout this Response is respectfully requested.

Respectfully submitted,

Date: 1/24/05



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Enclosures: Attachment A – Terminal Disclaimer and Authorization to Pay Fees.